

Appl. No. 10/730,346  
Docket No. P-148  
Amdt. dated October 30, 2009  
Reply to Office Action mailed on April 30, 2009  
Customer No. 27752

## REMARKS

### Claim Status

With this Response, claims 1, 2, 4, and 5 have been amended.

Also with this Response, claims 3 and 12 through 54 have been cancelled.

Claims 55–59 were previously withdrawn as a result of an earlier restriction requirement.

Consequently, claims 1-7 and 9-11 are pending.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

### Rejection Under 35 U.S.C. § 101

Claims 1-7 and 9-15 have been rejected under 35 U.S.C. § 101. The Office Action states that the “edible composition, as claimed, has the same characteristics as those found naturally.” Applicants respectfully traverse. However, to advance prosecution, and without conceding to the basis of the rejection, Applicants have amended claim 1. Claim 1, and thus dependent claims 2-7 and 9-11, recites wherein the edible composition comprises a nutritionally balanced dog food or cat food composition. Support for this amendment can be found throughout the specification and specifically on page 11, lines 14-18, of the specification has filed. As now amended, claims 1-7 and 9-11 recite an edible food composition that comprises a nutritionally balanced dog food or cat food composition, which falls within statutory subject matter of 35 U.S.C. § 101. Thus, Applicants respectfully request reconsideration and withdrawal of the rejection.

### Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 2, 4, 5, 29, 31, 35, 36, 39, 42, 46, 47, 50 and 54 have been rejected under 35 U.S.C. § 112, Second Paragraph, as “being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.” Applicants respectfully traverse because the use of the term “at least about” is clear. The term “at least about” is similar in meaning to “at least approximately” and the phrase “at least about” provides for the component to be present at a level that is at least approximately the level specified. Applicants submit that one of skill, upon reading the written description, would readily understand the language of the claims.

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However, to advance prosecution, and without conceding to the basis of the rejection, Applicants have amended claims 2, 4, and 54 to remove the word "about". Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 102 Over Ramaekaers

Claims 1, 2, 5, 11, 14, and 15 have been rejected under 35 U.S.C. § 102(e) as being anticipated by US Publication No. 2003/0077254 (Ramaekaers). Applicants respectfully traverse this rejection. However, in order to advance prosecution and without conceding the basis of the rejection, as above, Applicants have amended claim 1 to recite wherein the edible composition comprises a nutritionally balanced dog food or cat food composition. The Office Action points to Ramaekaers disclosure of Montmorillonite clay. As now amended, it is respectfully submitted that the Montmorillonite clay Ramaekaers does not anticipate claims 1, 2, and 5 as those claims recite an edible composition comprises a nutritionally balanced dog food or cat food composition, which is not taught, suggested, or disclosed by the Montmorillonite clay of Ramaekaers. Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 102 Over Fisher

Claims 1, 11, and 13-15 have been rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 4,145,447 (Fisher). Applicants respectfully traverse this rejection. However, in order to advance prosecution and without conceding the basis of the rejection, as above, Applicants have amended claim 1 to recite wherein the edible composition comprises a nutritionally balanced dog food or cat food composition. The Office Action has pointed to disclosure in Stitt disclosing chew resistant products. It is respectfully submitted that Fisher does not disclose, teach, or suggest an edible composition comprising a nutritionally balanced dog food or cat food composition in combination with the other elements of claim 1. Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 102 Over Stitt

Claims 1, 2, 5, 14, and 15 have been rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 5,069,903 (Stitt). Applicants respectfully traverse this rejection. However, in order to advance prosecution and without conceding the basis of the rejection, as

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above, Applicants have amended claim 1 to recite wherein the edible composition comprises a nutritionally balanced dog food or cat food composition. The Office Action has pointed to examples in Stitt disclosing chickens. It is respectfully submitted that Stitt does not disclose, teach, or suggest an edible composition comprising a nutritionally balanced dog food or cat food composition in combination with the other elements of claim 1. Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 103(a) Over Brunner

Claims 1, 9, 10, 14, and 15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 6,350,485 (Brunner) on page 8 of the Office Action, and in further view of Merck. Applicants respectfully traverse this rejection. However, in order to advance prosecution and without conceding the basis of the rejection, as above, Applicants have amended claim 1 to recite:

An edible composition comprising an amount of a soluble mineral component, wherein the soluble mineral component comprises two or more minerals selected from the group consisting of zinc, manganese, tin, copper, and mixtures thereof,

wherein the amount is an effective amount for use as an oral medicament, a source of protein, and a further amount of a phosphate component,

wherein the further amount is an effective amount for use as an oral medicament;

wherein at least a portion of both the soluble mineral component and the phosphate component are coated on the surface of the composition such that at least a portion of the mineral component is dissolved in saliva of a dog or cat; and

wherein the edible composition comprises a nutritionally balanced dog food or cat food composition.

Support for this amendment can be found, in addition to the parts of the specification listed elsewhere herein, on pages 9, 10, and 13 of the specification as filed.

As best understood by Applicants, Brunner fails to teach all of the elements in combination as now recited in amended independent claim 1. Brunner discloses, in column 3, a dry cat food composition having vitamins and minerals. See Column 3, lines 44-62. It also discloses tetrasodium pyrophosphate as part of a palatability enhancer that can be applied to the

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dry pet food. See Column 3, line 62 through Column 4, line 8. However, Brunner fails to disclose an edible composition as now claimed. Specifically, Brunner fails to disclose:

wherein the amount is an effective amount for use as an oral medicament, a source of protein, and a further amount of a phosphate component,

wherein the further amount is an effective amount for use as an oral medicament;

wherein at least a portion of both the soluble mineral component and the phosphate component are coated on the surface of the composition such that at least a portion of the mineral component is dissolved in saliva of a dog or cat.

Claims 9, 10, and 11 all depend from claim 1 and thus include the new elements of amended claim 1. Thus, Brunner fails to disclose each and every element of the newly amended claims, either alone or in combination with Merck. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejections over Brunner.

Rejection Under 35 U.S.C. § 103(a) Over Brunner in further view of Weyn and English

Claim 12 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 6,350,485 (Brunner) and further in view of US Patent No. 4,039,687 (Weyn) and US Publication No. 2003/0175387 (English) on page 10 of the Office Action. Claim 12 has been cancelled with this Response without prejudice to filing in a continuation application. Therefore, this rejection is now moot.

Rejection Under 35 U.S.C. § 103(a) Over Brunner and Merck in further view of Richar

Claims 3, 4, 6, and 7 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 6,350,485 (Brunner) and Merck and further in view of US Patent No. 5,405,836 (Richar) on page 13 of the Office Action. Applicants respectfully traverse this rejection. However, in order to advance prosecution and without conceding the basis of the rejection, as above, Applicants have amended claim 1 to recite:

An edible composition comprising an amount of a soluble mineral component, wherein the soluble mineral component comprises two or more minerals selected from the group consisting of zinc, manganese, tin, copper, and mixtures thereof,

wherein the amount is an effective amount for use as an oral medicament, a source of protein, and a further amount of a phosphate component,

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wherein the further amount is an effective amount for use as an oral medicament;  
wherein at least a portion of both the soluble mineral component and the phosphate component are coated on the surface of the composition such that at least a portion of the mineral component is dissolved in saliva of a dog or cat; and

wherein the edible composition comprises a nutritionally balanced dog food or cat food composition.

The arguments submitted above are equally applicable here since Brunner is used as the primary reference. With respect to Richar, as best understood by Application, it is only used for its teaching of zinc salts. Therefore, as best understood by Applications, Richar adds nothing with respect to the arguments presented above with respect to Brunner. Thus, the combination of Brunner, Merck, and Richar fail to disclose each and every element of the claims as now amended. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejections.

Other Rejections Under 35 U.S.C. § 103(a)

Claims 12 through 54 have been cancelled without prejudice to filing in a continuation application. Consequently, the rejection of those claims is now moot.

CONCLUSION

This Response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, entry of the amendments presented herein, reconsideration of this application, and allowance of the pending claims are respectfully requested.

Respectfully submitted,  
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